

REMARKS

Claims 27-32 and 35-45 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 5,610,828 (hereinafter Kodosky 1) in view of US patent application serial No. 2003/0034998 (hereinafter Kodosky 2) and apparently also in view of cited US patent No. 4,829,445 (hereinafter (Burney). Applicant respectfully requests reconsideration of the rejections, and further requests allowance of the pending claims in view of the foregoing amendments and the following remarks.

Claims 1-26, 33, 34 and 46 were previously cancelled. Thus claims 27-32, and 35-45 are pending.

Independent claims 27 and 32 have been amended to expressly include each of the structural and/or operational relationships set forth in the claims. More particularly, the “at least one” phraseology noted in the Office Communication has been deleted. Therefore, the prior art must describe or suggest each of the structural and/or operational relationships set forth in the claims.

M.P.E.P. 2143.03 provides that to establish *prima facie* obviousness of a claimed invention, all the claims limitations must be taught or suggested by the prior art. All words in a claim must be considered for judging the patentability of the claim against the prior art. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending there from is nonobvious.

As amended, claim 27 in part recites that the establishment of the directed relationships between the components is accomplished based on the following relationships in a process-engineering and/or production-engineering plant: a material flow between at least two components, an energy flow between said at least two components and an information flow between said at least two components. Claim 27 further recites a graphical user interface configured to display the following: a graphical representation of the material flow between said at least two components, a graphical representation of the energy flow between said at least two components, and a representation of the information flow between said at least two components, wherein the information flow further comprises information flow from components that precede said at least two components and which runs in a direction opposite to a direction of the material flow or opposite to a direction of the energy flow to provide a graphical two-way traceability in the process-engineering and/or the production-engineering plant.

Applicant notes at the outset that neither Kodosky 1 nor Kodosky 2 describes or suggests a graphical user interface configured to display graphical representations having each of the structural and/or operational relationships set forth in the claimed invention. The Office Communication cites Burney as purportedly describing the claimed relationship regarding information flow from components that precede the two components and which runs in a direction opposite to a direction of the material flow or opposite to a direction of the energy flow to provide a graphical two-way traceability in the process-engineering and/or the production-engineering plant. However, as discussed in greater detail below, Burney fails to correct the deficiencies of Kodosky 1 and Kodosky 2. Consequently, the combination of Kodosky 1, Kodosky 2, and Burney is not an appropriate *prima facie* combination of references for sustaining a §103 rejection of the claimed invention under the applicable standards and therefore this basis of rejection should be withdrawn.

As expressly described by Burney, this prior art reference is directed to an operatorless material handling system. See Burney at col. 1, lines 9-10; col. 4, lines 21-24; and col. 7, line 2. One skilled in the art will recognize that an operatorless system is incongruous with a system based on a graphical user interface configured to display graphical representations regarding the process-engineering and/or the production-engineering plant, as contemplated by Kodosky 1 and Kodosky 2 or the claimed invention. See for example, Kodosky 1 at col. 8, line 6 through col. 9, line 3 describing that “a user may select from among a variety of different graphical representations of input controls and output indicators in order to construct a panel display which conforms to a user's intuitive understanding of how the instrument 60 is controlled and how it provides data.”

That is, one skilled in the art will appreciate that the Office Communication proposes a combination that would render the prior art invention being modified unsatisfactory for its intended purpose and thus consistent with the Examination Procedures set forth in the M.P.E.P., such a reference cannot serve as a predicate for a *prima facie* case of obviousness.

More particularly, MPEP 2143.01(V) states that if the proposed combination of the prior art would render the prior art invention being modified unsatisfactory for its intended purpose, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) In this case, combining Burney (an operatorless system) with Kodosky 1 and Kodosky 2 would render such references unsatisfactory for their intended purpose regarding utilization of graphical

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representations for input controls and output indicators to conform to an operator's intuitive understanding of how instrumentation is controlled and how it provides data and therefore the combination proposed in the Office Communication cannot serve as a predicate for a sustaining a *prima facie* case of obviousness. Therefore, the Examiner is respectfully requested to abide by the Examination Procedures set forth in the M.P.E.P. and to withdraw the rejections of independent claim 27 and claims depending from such claims.

Claim 42 is directed to a method for layout-oriented acquiring of control-relevant information. In view of the amendments made to claim 42 and the discussion above, it is respectfully submitted that the combination of Kodosky 1, Kodosky 2, and Burney is not an appropriate *prima facie* combination of references for sustaining a §103 rejection of the invention recited in claim 42 (and claims depending therefrom) and therefore this basis of rejection should also be withdrawn.

Conclusion

For the foregoing reasons, it is respectfully submitted that each of the claims pending in this application recites patentable subject matter and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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By: 

John P. Musone
Registration No. 44,961
(407) 736-6449

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830